

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Charles Smith,	:	
	:	
Petitioner(s),	:	
	:	Case Number: 1:09cv251
vs.	:	
	:	Chief Judge Susan J. Dlott
Warden, Lebanon Correctional Institution,	:	
	:	
Respondents(s).	:	

ORDER

This matter is before the Court pursuant to the Order of General Reference in the United States District Court for the Southern District of Ohio Western Division to United States Magistrate Judge Timothy S. Black. Pursuant to such reference, the Magistrate Judge reviewed the pleadings and filed with this Court on April 14, 2010 a Report and Recommendation (Doc. 17). Subsequently, the petitioner filed objections to such Report and Recommendation (Doc. 24). Petitioner also filed supplemental objections (Doc. 25) and supplemental case law (Docs. 26 and 27).

The Court has reviewed the comprehensive findings of the Magistrate Judge and considered de novo all of the filings in this matter. Upon consideration of the foregoing, the Court does determine that such Recommendation should be adopted.

Accordingly, the petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 (Doc. 1) is **DENIED** with prejudice.

A certificate of appealability will not issue with respect to Grounds Two, Three, Four, Five, Seven, Eight and Nine of the petition which this Court has concluded are waived and thus barred from review on procedural grounds because under the applicable two-part standard

enunciated in *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000), “jurists of reason will not find it debatable whether this Court is correct in its procedural ruling” as required under the first prong of the *Slack* standard.

A certificate of appealability will not issue with respect to Grounds One and Six of the petition because petitioner has failed to make a substantial showing of the denial of a constitutional right based on these claims. *See* 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

The Court will certify pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of any Order adopting the Report and Recommendation will not be taken in “good faith” and, therefore, **DENIES** petitioner leave to proceed on appeal *in forma pauperis* upon a showing of financial necessity. *See* Fed. R. App. P. 24(a); *Kincade v. Sparkman*. 117 F.3d 949, 952 (6th Cir. 1997).

IT IS SO ORDERED.

s/Susan J. Dlott
Chief Judge Susan J. Dlott
United States District Court